

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.190 of 2007**

**26.2.2007**

Between:

M/s.Shank Investments Private Limited, represented by its Director,  
Shankarlal Agarwal, S/o.Late J.P.Agarwal

... Petitioner

AND

The Joint Collector-II, Ranga Reddy District  
And others

... Respondents

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ORDER:

The petitioner preferred appeal under Section 90 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (the Act, for brevity), against the orders of the second respondent in Case No.L/1758/1/2002, dated 23.9.2002 in respect of grant of certificate under Section 38-E of the Act in relation to the land admeasuring Acs.10.24 guntas in survey No.633 situated at Khapra Village of Keesara Mandal in Ranga Reddy District. Along with it, he also filed an application to condone the delay in filing the appeal. By an order dated 15.11.2005, the appeal being Case No.F2/239/2003, was dismissed for default. The petitioner then preferred an application under Order IX Rule 9 of Code of Civil Procedure, 1908 (CPC) for setting aside the order dismissing the appeal for default. By the impugned order dated 26.9.2006, the first respondent dismissed the application as the appeal is barred by limitation. In this writ petition, the said order is assailed.

Learned Counsel for the petitioner placed strong reliance on Section 93 of the Act, which applies to every appeal and application made under the provisions of the Limitation Act, 1963. Therefore, when the application for condonation of delay is filed under Section 5 of the Limitation Act, it is incumbent on the part of the first respondent to consider the same and pass a judicial order. The same was not done. For this reason, the impugned order is liable to be set aside. Accordingly, the impugned order is set aside and the matter is remitted to the first respondent to dispose of the application filed by the petitioner under Order IX Rule 9 CPC duly considering the application for condonation of delay in filing the appeal.

The writ petition, with the above observations, is accordingly

disposed of. No costs.

(V.V.S.RAO,J)

February 26, 2007.  
YS